

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

RYOSUKE KONDO, SANTOS ACOSTA,
KRISTOPHER FARLEY, EDWARD DEL
VECHHIO, JORGE CIFUENTES, CELINA LI,
AND HANNA PAGE, individually and on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

CREATIVE SERVICES, INC.,

Defendant.

Civil Action No. 1:22-cv-10438-DJC

JOINT MOTION TO STAY CASE

Pursuant to Fed. R. Civ. P. 6(b) and 26(a), Plaintiffs, Ryosuke Kondo, Santos Acosta, Kristopher Farley, Edward Del Vecchio, Jorge Cifuentes, Celina Li, and Hannah Page (“Plaintiffs”) and Defendant, Creative Services, Inc. (collectively “Parties”), jointly move for an order entering a temporary stay of the case up to and including January 5, 2023.

Good cause exists for the Parties’ request. The parties have scheduled a mediation for November 28, 2022, with JAMS mediator Honorable Morton Denlow to attempt to resolve this case on a class-wide basis. Upon information and belief, counsel for all parties in this case *and all other putative class action lawsuits* filed against Defendant that are pending in Superior Court of Massachusetts in the Bristol and Suffolk counties will also be attending the mediation.

Specifically, prior to and after this action was filed in federal court, seven other class action lawsuits (filed by twelve other plaintiffs) were filed against Defendant in the Superior Court of Massachusetts in Bristol County and Suffolk counties arising from the same alleged cybersecurity

incident that is the subject of this putative nationwide class action.

- *Jorge Cifuentes, on behalf of himself and on behalf of all others similarly situated, v. Creative Services, Inc.*, 2273-CV-00179C – Bristol County, MA (“Cifuentes Case”) (the first-filed action);
- *Daniel Durgin and Lisa MacGillivray, individually and on behalf of all others similarly situated, v. Creative Services, Inc.*, 2273-CV-00180 – Bristol County, MA (“Durgin & MacGillivray Case”);
- *Kristopher Farley and Edward Del Vecchio, on behalf of themselves and on behalf of all others similarly situated, v. Creative Services, Inc.*, 2273-CV-00210 – Bristol County, MA (“Farley & Del Vecchio Case”);
- *Santos Acosta, on behalf of himself and on behalf of all others similarly situated, v. Creative Services, Inc.*, 2273-CV-00208C – Bristol County, MA (“Acosta Case”);
- *Valerie Locke and Michael Mercurio, on behalf of themselves and all others similarly situated, v. Creative Services, Inc.*, 2273-cv-00233A – Bristol County, MA (“Locke and Mercurio Case”);
- *Celina Li and Hannah Page, individually and on behalf of all others similarly situated, v. Creative Services, Inc.*, 2273-cv-00288B – Bristol County, MA (“Li & Page Case”); and
- *Pasquale Russolillo and Gary Shepis, on behalf of themselves and all others similarly situated, v. Creative Services, Inc.*, 2284-cv-01059 – Suffolk County, MA (“Russolillo and Shepis Case”).

On August 22, 2022, Plaintiffs Durgin, MacGillivray, Locke and Mercurio consolidated their actions and filed a Consolidated Amended Class Action Complaint in the Superior Court in Bristol County, MA. On August 24, 2022, Plaintiffs Acosta, Farley, Del Vecchio, Cifuentes, Li, and Page joined Plaintiff Kondo in filing an Amended Class Action Complaint in federal court after voluntarily dismissing their actions from the Superior Court in Bristol County, MA. During this time of restructuring, Defendant was granted four extensions of time to file its responsive pleading:

- The first extension granted additional time from May 3, 2022 to June 2, 2022 (to respond to the complaint originally filed by Kondo).

- The second extension granted additional time from June 5, 2022, to July 5, 2022 after Defendant retained new counsel (Wilson Elser) and to allow them time to become familiar with the facts in this case (and the seven other related state court cases);
- The third extension granted additional time from July 5, 2022 to August 19, 2022 when Plaintiffs in the Durgin & MacGillivray and Locke and Mercurio Cases sought consolidation so Defendant could coordinate with Plaintiffs. These state-court plaintiffs subsequently filed a Consolidated Amended Class Action Complaint in Bristol County, MA (Defendants' responsive pleading is due on October 21, 2022);
- The fourth extension granted additional time from August 19, 2022 to September 2, 2022 when Plaintiffs in the Cifuentes, Farley & Del Vecchio, Acosta, and Li & Page Cases voluntarily dismissed their state court cases and sought to join in an amended complaint in the instant action so Defendant could coordinate with Plaintiffs. Plaintiffs subsequently filed an Amended Class Action Complaint.

The requested temporary stay would allow the Parties time to focus on their scheduled mediation to attempt to resolve this action without requiring additional briefing (and if the case is not resolved at the mediation, Defendant shall file its responsive pleading to the Amended Class Action Complaint) by January 5, 2023. This stay will not burden or prejudice Plaintiffs or any third parties, and is consistent with the just, speedy, and inexpensive determination of this action. Moreover, there are no hearings scheduled, no trial date has been set, and Plaintiffs kindly consent to the requested extension.

WHEREFORE, the Parties respectfully requests that the Court grant this joint motion, and enter a temporary stay of the case to and including January 5, 2023.

Respectfully submitted,
Defendant,
Creative Services, Inc.
By its attorneys,

/s/ Daniel E. Peacock
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Dated: October 4, 2022

LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), the undersigned certifies that counsel have conferred in good faith to resolve or narrow the issues raised in this motion, and that Plaintiffs join in this motion.

CERTIFICATE OF SERVICE

I, Daniel E. Peacock, hereby certify that, on this 4th day of October 2022, the foregoing document was filed through the ECF system, the document will be sent electronically to the registered participants, and paper copies will be served via first class mail on those indicated as non-registered participants.

/s/ Daniel E. Peacock
Daniel E. Peacock